

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

LUCILLE MATTHEWS,

Plaintiff,

v.

Case No. 4:24-cv-00077-AWA-DEM

RECEIVABLE RECOVERY
SERVICES, LLC,

Defendant.

MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW

NOW COMES Counsel for Plaintiff LUCILLE MATTHEWS (“Withdrawing Counsel”), pursuant to Local Rules 7 and 83.1, hereby moving this Honorable Court to withdraw as counsel for LUCILLE MATTHEWS (“Plaintiff”), and in support thereof, stating as follows:

1. On May 10, 2024, Plaintiff filed the instant action against Defendant seeking redress for alleged violations of the Fair Debt Collection Practices Act (“FDCPA”) pursuant to 15 U.S.C. §1692. [Dkt. 1]

2. Withdrawing Counsel has made numerous unsuccessful attempts to contact Plaintiff through phone calls and written correspondence.

3. Despite Withdrawing Counsel’s numerous attempts to contact Plaintiff, Plaintiff has been entirely unresponsive. Specifically, Plaintiff has been unresponsive since August 7, 2024.

4. To date, Plaintiff has not contacted Withdrawing Counsel.

5. The Eastern District of Virginia uses the Virginia Rules of Professional Conduct to determine whether counsel may be granted leave to withdraw. *Portsmouth Redevelopment & Hous. Auth. v. BMI Apartments Assocs.*, 851 F. Supp. 775, 782 (E.D.V.A. 1994); Local Rule

83.1(H). Virginia Rule of Professional Conduct 1.16(b) provides that an attorney may withdraw from representing a client if withdrawal can be accomplished without material harm to the client's interests, or for reasons including: the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; or other good cause exists.

6. In accordance with Virginia Rule of Professional Conduct 1.16(b), withdrawing counsel submits that good cause for withdrawal exists as Plaintiff will not be prejudiced by the withdrawal, Plaintiff has been given multiple reasonable warnings that withdrawing counsel will withdraw from the instant case, and Plaintiff has substantially failed to fulfill an obligation to withdrawing counsel despite no less than nine (9) separate attempts to communicate with Plaintiff to no avail.¹ Withdrawing counsel cannot effectively represent Plaintiff without any communication from Plaintiff.

7. Moreover, good cause exists as the case is in its early stages and Defendant will not be prejudiced by Withdrawing Counsel's withdrawal.

8. Withdrawing Counsel cannot effectively represent Plaintiff without Plaintiff's active participation in this case.

9. For the foregoing reasons, Withdrawing Counsel submits that there is good cause for the Court to permit Phoenix Ayotte to withdraw as counsel for Plaintiff.

10. In the event the Court would like to contact Plaintiff, Plaintiff's last known address is 10984 Woods Cross, Rd, Gloucester, Virginia 23061. Plaintiff's last known phone number is (757) 561-1727.

¹ If necessary, Withdrawing Counsel will provide a written log of contact attempts made to Plaintiff.

WHEREFORE, Withdrawing Counsel, Phoenix Ayotte respectfully requests that this Honorable Court enter an Order granting the Motion to Withdraw as counsel for Plaintiff LUCILLE MATTHEWS, and for any other such relief the Court deems just and appropriate.

Dated: September 6, 2024

Respectfully submitted,

By: /s/ Phoenix S. Ayotte Esq.
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CERTIFICATE OF SERVICE

I, Phoenix Ayotte, certify that on September 6, 2024, the foregoing document was filed electronically using the Court's CM/ECF system, which will accomplish service on all counsel of record.

Andrew Biondi, Esquire (VSB No.48100)

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Counsel for Defendant

Also being sent to Plaintiff, Lucille Matthews via certified Mail to last known address:

Lucille Matthews
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/s/ Phoenix Ayotte